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August 4, 2017

VIA ECF

Honorable Lorna G. Schofield
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

RE: *Contant, et al. v. Bank of America Corporation, et al.*, No. 17-cv-3139

Dear Judge Schofield:

Pursuant to the Court's orders in *Baker, et al. v. Bank of America, Corp., et al.*, No. 16-cv-7512, ECF No. 106, and in the above-captioned action, ECF No. 8, Counsel for Plaintiffs ("Plaintiffs") respectfully submit this letter regarding the scheduled depositions in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789-LGS ("FOREX").

The Court's November 22, 2016 Order in the earlier-filed action *Baker v. Bank of America Corporation, et al.*, No. 1:16-cv-07512-LGS, provided:

[I]f depositions are scheduled in [FOREX], counsel for Deutsche Bank shall file notice promptly in this matter so that any interested parties may have an opportunity to move either to lift or maintain the stay in this matter.

Baker, ECF No. 106 (emphasis added). The parties' April 28, 2017 joint letter in the above-captioned action (ECF No. 5, endorsed on May 2 at ECF No. 8), incorporated the November 22, 2016 *Baker* order, providing that "if depositions are scheduled in FOREX, Defendants shall promptly notify Plaintiffs so that Plaintiffs may move to lift the stay." *Contant*, ECF No. 8.

In a July 14, 2017 joint status letter submitted to the Court in FOREX, Defendants Credit Suisse and Deutsche Bank and the plaintiffs in that action stated that the plaintiffs planned to take Rule 30(b)(6) depositions of Credit Suisse and Deutsche Bank, and that both depositions would be limited to "corporate structure and organization." FOREX, ECF No. 808. Pursuant to the Court's orders in *Baker, et al. v. Bank of America, Corp., et al.*, No. 16 Civ. 7512, ECF No. 106, and in the above-captioned action, ECF No. 8, counsel for Deutsche Bank filed a notice in the above-captioned action stating that the Credit Suisse deposition had been scheduled for

August 15, 2017, and the Deutsche Bank deposition was scheduled for August 18, 2017. ECF No. 90. The notice was filed on July 26, 2017, just twenty days before the first scheduled deposition. *Id.*

On August 1, 2017, Plaintiffs sent a letter to Defendants requesting that they agree to permit Plaintiffs to participate in the August 15 and August 18 depositions and obtain documents already produced by Defendants in *FOREX* relevant to those depositions and limited to the “corporate structure and organization” of Credit Suisse and Deutsche Bank. Counsel for Credit Suisse and Deutsche Bank replied on August 3, stating that Defendants do not agree to allow Plaintiffs to participate in the depositions or to obtain related documents, but that “in an effort to avoid burdening the Court with unnecessary motion practice, Credit Suisse and Deutsche Bank are willing to provide you with final transcripts of the Rule 30(b)(6) depositions and exhibits used at those depositions if you agree to abide by any protective order and confidentiality agreement in *FOREX*.” However, Defendants did not stipulate that those transcripts and exhibits would be admissible, and in any event, the topics covered in the depositions may need to be addressed a second time to cover issues unique to the above-captioned case if Plaintiffs are not permitted to participate on August 15 and 18.

The Rule 30(b)(6) depositions are expressly limited to “corporate structure and organization,” topics which are extremely narrow in scope. *See FOREX*, ECF No. 808. Due to the limited and non-substantive scope of the depositions, any document productions relevant to the depositions will be similarly limited. Deutsche Bank and Credit Suisse stated in their letter that “[n]either Credit Suisse nor Deutsche Bank has made productions or segregated documents from their general productions specific to the upcoming depositions,” but the Defendants do not explain, or even claim that the production of documents relevant to their corporate and organizational structure would impose any burden that would outweigh the burden and expense of conducting such depositions again in this case.

Plaintiffs have not previously requested any discovery in this case or the previously filed actions. At this time, Plaintiffs are not requesting discovery beyond that related to the scheduled depositions. Plaintiffs’ attendance at the depositions and Defendants’ limited production of related organizational and corporate structure documents already produced in *FOREX* would place virtually no burden on Defendants, whereas requiring Plaintiffs to duplicate depositions already taken in *FOREX* at a later date would be highly inefficient and burdensome to all parties (including Credit Suisse and Deutsche Bank) and the Court.

Accordingly, Plaintiffs respectfully request that the Court enter an order (1) permitting Plaintiffs to attend and participate in the August 15 and 18 depositions, with Plaintiffs limited to 60 minutes of examination in each deposition; and (2) directing Credit Suisse and Deutsche Bank to produce to Plaintiffs by August 12, 2017, those documents already produced in *FOREX* relevant to the August 15 and 18 depositions and limited to the “corporate structure and organization” of Credit Suisse and Deutsche Bank. If the Court is not inclined to order that such documents should be produced to Plaintiffs at this time, Plaintiffs respectfully request that the Court enter an order permitting Plaintiffs to attend and participate in the August 15 and 18 depositions without prejudice to seek additional testimony, on a showing of good cause, if and when relevant documents are produced to Plaintiffs.

Respectfully submitted,

/s/ Michael Dell'Angelo
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